There will be no change next year in the optional work offered,[1] — the course on Massachusetts Law and Practice, and ten lectures on Patent Law. In text-books, however, there will be several welcome changes. The class in Evidence will use Professor Thayer's new collection of cases. Ultimately, it is to be hoped, Professor Smith will perform the same service for the course in Corporations; but at present his time is occupied by the preparation of "Cases on Torts," to be ready year after next, which will supplement or possibly supersede Professor Ames's collection. Meanwhile, however, the class in Corporations will make much use of the book of cases just issued by Professor Cummings of Columbia, which, except that it does not touch Municipal Corporations, follows very closely the course as given at Harvard. Finally, Professor Ames is preparing a revision of his "Cases on Trusts," in two volumes, — substantially a new book.

MUNICIPAL COAL-YARDS UNCONSTITUTIONAL. — In reply to a question from the Legislature of Massachusetts as to whether the Legislature can constitutionally authorize a city or town to buy coal and wood and to sell them to its inhabitants for fuel, five of the justices of the Supreme Court have expressed their opinion that such a law would be unconstitutional. To carry on such a business, they say, money must be raised by taxation; taxation can only be for a public purpose; selling wood and coal to inhabitants is not the sort of thing which the Constitution contemplates as a public service for which taxation may be authorized.

Mr. Justice Holmes, in dissenting from the above opinion, takes the ground that the purpose is no less public in the case of wood and coal than it is in the case of water or gas or electricity or education; and that it is for the Legislature, and not the court, to consider the necessity or expediency of such legislation.

Mr. Justice Barker, also dissenting, simply emphasizes the point that this sort of thing can be done only if it is necessary; but he leaves it to the Legislature to determine that necessity.

The opinion of the dissenting justices is clearly more consistent with that delivered by the justices two years ago, to the effect that the Legislature could authorize cities and towns to sell gas or electric light to their inhabitants,[2] and is also, it is submitted, correct on principle. It is for the Legislature to judge, within limits, of the exigency, and also of the public nature of the use; and so long as the resulting legislation can reasonably be said to be in a line with what has always been done, there can be no judicial question.

It should be noticed, by the way, that this is not a decision by the Supreme Court, as stated in the newspapers, but an advisory opinion delivered by the justices in response to legislative inquiry.

TRESPASS BY SUBTERRANEAN SQUEEZING. — A recent New Jersey case[3] presents a rather novel instance of trespass. The declaration charged

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[1] As this number goes to press, a petition to the Faculty is being numerously signed for the establishment of a course in the New York Civil Code. There would be no great reason for sunrise if such a course should be in operation when the REVIEW next appears.

[2] Opinion of Justices. 150 Mass. 592.

[3] C s igan *v.* Pennsylvania R. Co., 23 Atl. R. 810.

that the defendants wrongfully and injuriously made, on their own land, an embankment so heavy that the downward pressure (two hundred thousand tons), causing an equal lateral pressure, forced earth and gravel, lying below the surface in the defendant's land, into the plaintiff's land, thereby disturbing the surface of the plaintiff's lot, moving his house on to land not his, and cracking its foundation. The defendants justify under their charter, the embankment being properly and carefully built. The court holds that while the charter justifies any public damage from reasonable working of the road, as injury arising from noise, smoke, cinders, vibration, any damage which in its nature is distinctly private is not within their privilege. This decision, that such an embankment is not within the legislative sanction, which on the facts stated seems open to doubt, leaves the question as though the act had been done by a private individual, and the result of the case is that no man shall squeeze his neighbor's land, even below the surface. To say that a man cannot put buildings of the size he chooses on his own land is at first a startling doctrine; but if the plaintiff can prove actual transfer of particles of earth from his neighbor's lot to his, however far below the surface, it seems to follow necessarily that there is a trespass. Of course, as every downward pressure produces lateral pressure, and pressure is displacement, a man trespasses with every step he takes on his own land. It also follows, that, since the right to support extends only to the land itself, a man is absolutely responsible for all damages to his neighbor's land resulting from building on his own, however firm his land and however loose that of his neighbor. It is needless to add that the unmetaphysical sympathies of juries, as well as the infrequency of violent subterranean displacements, will keep this scientific principle within due limits.

AN OLD LAW FOR THE PROTECTION OF STUDENTS. — Economical students in our vicinity have doubtless been rejoicing over the discovery of a law by which they may at times enjoy the substantials of life at no pecuniary sacrifice. An old Massachusetts Statute, which has practically been unenforced since its enactment, reads that no innholder, tavern-keeper, retailer, confectioner, or keeper of a shop or house for the sale of drink or food, or a livery-stable keeper for horse or carriage hire, shall give credit to a student in an incorporated academy or other educational institution within the State; and in another section, that any one giving credit contrary to this provision shall forfeit a sum equal to twice the amount credited, whether the bill is paid or not. A Harvard student was recently forced, in order to dissolve an attachment for such a debt, to pay the bill. He therefore sued for money paid under duress, and recovered. The case was appealed to the Superior Court, but has since been compromised. Of course the Statute, though absurdly out of date, is not so absolutely inapplicable to the state of society now that, like the Blue Laws, it can be judicially disregarded. It is no more than foolish, and if the Legislature does not take the trouble to repeal it, occasional students will continue to grow slightly fatter from the existence of surroundings that make it impracticable for dealers to refuse all dealings on credit with protected Harvard innocents. It seems on the facts that the appellant had no case, as, if a debt due in honor but not in law is paid under compulsion of law, it is recoverable.